UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/47/367
10 August 1992

ORIGINAL: ENGLISH

Forty-seventh session
Item 98 (c) of the provisional agenda*

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Iraq

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly part one of the interim report on the situation of human rights in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1992/71 of 5 March 1992 and Economic and Social Council decision 1992/241 of 20 July 1992.

---

* A/47/150.

Interim report on the situation of human rights in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 6	3
II.	THE SITUATION IN THE SOUTHERN MARSHES	7 - 16	4
III.	A SYSTEM OF HUMAN RIGHTS MONITORING	17 - 26	7
IV.	SUMMARY	27 - 28	10
Annex.	Letter dated 29 July 1992 from the Special Rapporteur of the Commission on Human Rights addressed to the Minister for Foreign Affairs of Iraq		11

Part One

I. INTRODUCTION

1. Subsequent to Commission on Human Rights resolution 1991/74 of 6 March 1992, entitled "Situation of human rights in Iraq", Mr. Max van der Stoel was appointed by the Chairman of the Commission to serve as Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq. Pursuant to the terms of resolution 1991/74, as approved by decision 1991/256 of 31 May 1991 of the Economic and Social Council, Mr. van der Stoel took up his duties in an individual capacity and subsequently his interim report (A/46/647) was submitted to the General Assembly on 13 November 1991, followed by a full report (E/CN.4/1992/31) submitted to the Commission on Human Rights on 18 February 1992.

2. On the basis of the Special Rapporteur's reports to the General Assembly and the Commission on Human Rights, his mandate was extended for a second year by the Commission in its resolution 1992/71 of 5 March 1992. That resolution was approved by the Economic and Social Council in decision 1992/241 of 20 July 1992. Accordingly, Mr. van der Stoel was requested to submit an interim report to the forty-seventh session of the General Assembly and a final report to the forty-ninth session of the Commission on Human Rights.

3. In the light of the considerable number of serious allegations of human rights violations occurring especially in the southern marsh area of Iraq, reports of several of which emanate from reliable sources and certain of which the Special Rapporteur has been able to confirm independently, the Special Rapporteur feels that the urgency of the situation is such as to require the division of his report into two parts. While Part One of the interim report concerns itself with the current situation in the southern marshes and elaborates to some degree the previous recommendation for the sending of human rights monitors to Iraq as part of an exceptional response to this exceptional situation, the Special Rapporteur must emphasize the fact that he is actively studying the situation in the rest of the country and will be submitting Part Two of his interim report in due course as an addendum to the present report.

4. The special alarm that strikes the Special Rapporteur at the present time relates to the reliable and disconcerting information that Iraqi military forces have launched a series of attacks against the civilian population in the marsh area that borders the Islamic Republic of Iran. As international humanitarian agencies have been withdrawing, there remains little or no source of protection or support for the victims. The Special Rapporteur is therefore of the opinion that immediate steps must be taken in response to what appears to be a deteriorating situation before too much irreparable damage is done and too many individuals are victimized.

5. Although the situation in the southern marshes warrants special and immediate attention, it would be wrong to neglect the human rights situation

elsewhere in the country. In fact, there is unfortunately no reason to assume that the situation of human rights has improved since the Special Rapporteur concluded in his report of 18 February 1992 (E/CN.4/1992/31) that it was so exceptionally grave as to require exceptional steps aimed at curbing the repression. Indeed, there are even more reasons to take steps in so far as the present situation of human rights in Iraq continues to constitute a violation of mandatory Security Council resolution 688 (1991), which demanded that Iraq immediately end its policy of repression in order to contribute to peace and security in the region.

6. The exceptional step that the Special Rapporteur continues to have in mind is the sending of teams of human rights monitors to all parts of Iraq (including that part of Iraqi Kurdistan from which the Iraqi authorities have withdrawn, but which is affected by the internal blockade and where it is alleged that Iraqi government actions constituting human rights violations frequently take place). In this relation, the Commission on Human Rights decided to extend the mandate of the Special Rapporteur with the specific instruction that, with reference to his proposal to send human rights monitors to Iraq, the Special Rapporteur "develop further his recommendation for an exceptional response" in consultation with the Secretary-General (resolution 1991/71, para. 10). Subsequently, the Special Rapporteur had consultations on the subject with, inter alia, the Secretary-General and members of the Security Council. The elaboration of the Special Rapporteur's original proposal is therefore contained within this first part of his interim report.

II. THE SITUATION IN THE SOUTHERN MARSHES

7. The southern marsh area of Iraq is a vast maze of lakes and waterways, dotted with reed beds and islands, which is inhabited by a unique people who trace their origins back to before 3000 B.C. The exact number of people who live in the marshes is unknown, but several hundreds of thousands live in small towns and villages on the edges of the area. Millions more populate the cities of Basra, Nassiriya and Amara, which are located near the marsh area.

8. According to a variety of reports brought to the attention of the Special Rapporteur, there appears to be a resurgence of grave violations of human rights by the Government of Iraq against the population in the area in various ways. Viewed together, the Special Rapporteur has considerable cause for concern that there is in fact a specific policy aimed at the Marsh Arabs in particular. In this connection, the Special Rapporteur is especially aware of a videotape in his possession wherein the present Prime Minister is heard to instruct several Iraqi army generals late last year to "wipe out" three specified Marsh Arab tribes. The same videotape, portions of which have been broadcast on various national television networks, shows Iraqi army personnel apparently training to carry out assaults on the population, with some portions of the videotape appearing to show actual interrogations and raids in progress. In this context, then, the many recent reports of full-scale military attacks on southern marsh villages are extremely disturbing and may be seen as the manifestation of a preconceived policy.

9. Certain of the recent reports of military attacks on the civilian population were taken up by the Special Rapporteur on extrajudicial, summary or arbitrary executions in an urgent appeal to the Government of Iraq. Expressing the same and many other concerns, the Special Rapporteur on human rights in Iraq has also addressed a letter to the Government of Iraq, a copy of which is annexed to the present report. Clearly, the greatest immediate concern is for the lives of the people. Military attacks on civilians, whether on the basis of orders against particular individuals or as part of indiscriminate mass bombardments, clearly violate the rights to life, personal integrity and due process of law. Indeed, such attacks constitute assaults against the essential principles of any rule of law compatible with the very notion of human rights.

10. In the Special Rapporteur's report of 18 February 1992 to the Commission on Human Rights (E/CN.4/1992/31), certain concerns were raised in relation to the Marsh Arabs, who are also Shiah Muslims. At that time, the Special Rapporteur considered the policies affecting them as partly related to their religious beliefs. However, it is worth recalling here that the Special Rapporteur also cited a series of articles in Al-Thawrah (the Baath Party newspaper), which characterized the Marsh Arabs as an inferior and "un-Iraqi" people. These sinister and ominous references may now be viewed in relation to the current wave of repression.

11. The most blatant violations of human rights being perpetrated by the Government are constituted by the military attacks against the civilian population. In the past, small military operations have been explained by the need to seek out so-called criminal elements who had sought refuge in the marshes. These persons were generally said to be either military deserters or participants in the March 1991 uprisings who were also accused of murder or rape. However, the Special Rapporteur cannot understand how indiscriminate bombardments of civilian settlements could possibly be justified by police actions directed against a small number of individuals. As pointed out by the Special Rapporteur on extrajudicial, summary or arbitrary executions in his recent urgent appeal concerning these attacks, the Government of Iraq must respect the rights to life and physical integrity included in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Further, the tactics employed by the Government in using military attacks are completely incompatible with their obligations to provide for due process of law such that innocent persons are not wrongly penalized and that guilty persons are nevertheless dealt with according to the rule of law, including a fair and public trial. In the face of confirmed reports of artillery bombardments and reliable reports of considerable troop movements and fixed-wing aircraft flights in the region, it would seem clear that the level and nature of force being employed in the region for whatever purpose exceeds by far the standards detailed in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August to 7 September 1990) and in the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, annex).

12. According to information received by the Special Rapporteur, a series of military attacks are alleged to have commenced in early July 1992. Initial artillery attacks are said to have been aimed at certain tribes concentrated in the villages named in the letter to the Iraqi Minister for Foreign Affairs annexed to the present report. The main activities appear to have focused on villages south-west of the city of Amara. In the villages of Adil, Al-Salaam, Maimona and Al-Majar, curfews were in effect prior to the commencement of bombardments. Following the bombardments, reliable reports indicated that local hospitals and medical clinics showed significant increases in patients being treated for related injuries. As a result of the continuing military operations, there have also been reports of disappearances.

13. At the same time as the local population has been suffering stepped-up military attacks, the Government of Iraq has apparently also been proceeding with the forced relocation of Marsh Arabs and inhabitants of the neighbouring villages. According to certain reports, the programme of village amalgamization is justified by the Government by the necessity to bring these people closer to better medical and other services. Some Marsh Arabs are said to have been given new homes closer to places of fixed employment. The precise "necessity" of these relocations has still to be sufficiently explained, but it is clear that many of the persons affected were unwillingly moved in violation of their human right to freedom of movement. On this point, the Special Rapporteur cannot help but recall the programme of forced relocations, village amalgamization and internal expulsion that constituted part of the "Anfal Operations" waged by the Government of Iraq against the Kurdish population in the late 1980s.

14. In addition to the programme of forced relocations of the local population, the Government of Iraq has held the marsh area subject to an internal economic blockade for some time. By restricting the inflow of basic foodstuffs and medicaments needed by the inhabitants, it is alleged that the Government is trying to draw people out of the relative protection of the marshes in order to control the population and arrest those labelled "criminals". In this connection, it has also come to the attention of the Special Rapporteur that the Government of Iraq has acted to cause the international non-governmental humanitarian agencies previously working in the area to withdraw, thus leaving the local population with even fewer sources of assistance. As the United Nations family of humanitarian agencies also scales down its presence, concern for the well-being of the people increases.

15. Perhaps the greatest threat to the inhabitants of the southern marshes is posed by the enormous water diversion programme, which is proceeding at a rapid pace. Known as the "Third River Project", the government programme to create another central waterway in the region for the purpose of irrigating salted flats will clearly result in the draining of much of the marsh area of its watercover, surrendering the silty soils to the dry air. As the reed beds become exposed, they die, further contributing to the deterioration of the environment; this process is also said to have been accelerated by the occasional burning of reeds. In so far as the Marsh Arabs are integrally linked to this special natural environment, they are threatened both in terms

of their daily needs (which are largely met through fishing) and in terms of the survival of their ancient culture. Quite apart from potentially serious environmental effects, the programme may also be seen as a method to facilitate government control over the population in the area. In the opinion of the Special Rapporteur, the Government's Third River Project should be immediately brought to a halt pending a comprehensive environmental assessment and consultations with the affected population.

16. Considering the developments recounted above, the Special Rapporteur is of the opinion that, irrespective of the reply the Government of Iraq may send to his appeal of 29 July 1992 (see annex), there is an urgent need to send a team of human rights monitors to the specific region of the southern marshes. These monitors would constitute an independent source of reliable information following the course of events in the marsh area.

III. A SYSTEM OF HUMAN RIGHTS MONITORING

A. Introduction

17. While the notion of a body of human rights monitors serving a Commission on Human Rights-appointed Special Rapporteur would definitely be an innovation, it is to be observed that the basic idea of human rights monitoring is neither new to international relations in general nor to United Nations practice in this field in particular. Indeed, it is rather clear from the important existence of a human rights dimension in many recent peace-keeping and peacemaking operations (e.g. El Salvador and Cambodia) that monitoring of the human rights situation at the least, often accompanied by active encouragement of specific improvement, has become a normal element of an adequate response to such situations. Incorporating a monitoring operation into the service of the Special Rapporteur would thus seem a natural and logical development appropriate to the local situation. Indeed, given the terms of Security Council resolution 688 (1991), in relation to which the Special Rapporteur has commented on the obvious link between the human rights situation in Iraq and the interest of maintaining peace and security in the region, it would seem almost imperative that some kind of instrument be developed to assess compliance by Iraq, just as mechanisms have been developed to assess Iraq's compliance with other terms of the same and other resolutions, which concern, for example, weapons of mass destruction. Simply, an occasional visit by the Special Rapporteur is not enough. Through a monitoring mechanism providing a continuous flow of reliable information, the Special Rapporteur could better assess the continuing situation of human rights in Iraq and contribute constructive criticisms and comments.

B. The operation

18. Based on his own experience and consideration of the specific situation in Iraq, and informed by examination of other monitoring operations, the Special Rapporteur recommends that a relatively small operation of a number of

mobile teams of monitors be sent to Iraq. Obviously, such a complex human rights situation as that in Iraq could well warrant a more comprehensive system of monitoring. Nevertheless, the Special Rapporteur believes that the placement of a limited number of mobile teams would prove very helpful and be appropriate to the need. The precise number and placement of teams would be determined with due account to logistical factors and prevailing conditions in the various parts of the country. The operation would be conducted as follows.

1. Structure of the operation

19. The operation would be structured such that the monitors would communicate directly and regularly with the Special Rapporteur via his supporting staff in the Special Procedures Section of the Centre for Human Rights at Geneva. The information received would form the basis of the Special Rapporteur's various reports and would allow him to make representations to the Government of Iraq as appropriate.

2. Organization of the operation

20. It is proposed that each team would be composed of three monitors. The teams would establish local offices in the central areas of selected cities and develop a public presence. From the base of their offices, each team would monitor events in the surrounding region, making regular visits to neighbouring towns and villages, including local hospitals, court-houses, jails, prisons, security centres and other places of detention. The teams would be collectively administered by a lead team to be established in Baghdad, although each team would report directly, via modern communications, to the central secretariat in Geneva. The lead team in Baghdad would also be supplemented by an administrative officer and a medical officer who could examine injuries and scars in assessing the validity of claims of maltreatment and torture and/or the cause of death. Information would be forwarded to the Centre for Human Rights in Geneva to the office of the Special Rapporteur. Through the course of the year, the Special Rapporteur would make occasional visits to the local offices.

3. Duties of the monitors

21. The monitors would be the Special Rapporteur's intermediaries in Iraq. Their principal duty would be to provide objective and immediate information. Specifically, they would establish local offices, making themselves available to receive information relating to allegations of violations. In the event of allegations being received, either locally or from other sources, the monitors would investigate accordingly. Regular duties would also include visits to places of detention, without prior notification, and observation of trials and court proceedings. While the monitors would not be empowered to instruct, intervene, judge or evaluate, they would be able to make representations on behalf of the Special Rapporteur to local authorities in the event of

specifically defined "urgent" matters. As concerns assessment of the information to be received by the Special Rapporteur, it is to be stressed that only those standards will be applied to Iraq which result from its own subscription to human rights conventions or are customary norms of behaviour. In obtaining information, the monitors will be instructed to bear this in mind at all times.

4. Selection of the monitors

22. The composition of each team would include at least one jurist and one Arabic-speaker (presumably as mother tongue); for the teams to be located in the north, there should also be at least one person who speaks Kurdish. Monitors would be selected on the basis of their qualifications, with experience in the field being of paramount importance. In addition, attention to nationality would be necessary, with a wide cross-section being preferable. The presence on each team of someone from an Arab culture would be welcome. The status of the monitors would be regular United Nations personnel with full protection. They would be appointed by the Under-Secretary-General for Human Rights, on the recommendation of the Special Rapporteur. Depending upon the number of teams, perhaps as many as 50 monitors (plus one administrator and one medical officer) would have to be kept in the field at all times; additional staff persons would have to be retained to allow for rotations, leaves and/or incapacities.

5. Location of teams

23. A lead team would have to be located in Baghdad, for obvious reasons of size, importance and location. It would also serve the logic of cooperation with other United Nations agencies presently operating in Iraq. Other teams would be appropriately distributed throughout the country with due regard to territorial balance, the peculiarities of regional geography and the prevailing situation in the regions. Consequently, it may be necessary to concentrate on certain problems, depending upon local developments.

6. Logistical support

24. The operation would be supported by the Department of Humanitarian Affairs' Special Unit for Iraq inasmuch as material needs would include transportation, communications and security. While supply and maintenance of transportation and communications equipment could be provided by these services out of Baghdad or their local offices, security arrangements would probably have to include the assignment of some United Nations guards (perhaps four), to each team of human rights monitors. In addition to these services, some locally employed persons may be necessary to act as drivers and in other limited capacities.

7. Financial requirements of the operation

25. Drawing from the experience of the former Office of the Executive Delegate for Iraq, the cost of such a monitoring operation should not run to more than a few million dollars (depending upon the number of teams) per year. In relation to the amount of money spent so far on security and humanitarian efforts in Iraq, or to the expenses of the similar operations foreseen for El Salvador and Cambodia, the Special Rapporteur considers the expense to be very small indeed. Moreover, there would appear to be no reason why the expense should not be borne by Iraq, as is to be the case with other humanitarian assistance, whether it be through the sale of oil or some other formula.

C. The role of the Government of Iraq

26. It is clear that no system of human rights monitoring may function perfectly without the cooperation of the Government concerned. The Special Rapporteur hopes in that regard that the Government of Iraq's response will be positive. That in itself would offer a significant indication that the Government was committed to having an end put to all human rights violations. On the other hand, refusal by the Government of Iraq to cooperate with the kind of modest operation suggested by the Special Rapporteur could only increase fears that human rights violations will continue. This in turn would surely place yet another obstacle in the way of a return to normalcy in Iraq's position in the international community.

IV. SUMMARY

27. Without any evidence of an improving human rights situation in Iraq, it is a matter of great importance that action be taken to bring a halt to the serious violations of human rights and to put in place a system to monitor closely the continuing situation. Indeed, in so far as Security Council resolution 688 (1991) establishes the specific condition that the Government put an end to repression, there must be put in place some credible mechanism to measure compliance in this complex area. Certainly, the Special Rapporteur acting alone and from a distance, apart from occasional visits, cannot adequately fill this role.

28. As concerns the acute situation in the marshes, and irrespective of what might be done more generally with regard to ongoing violations elsewhere in the country, it is a matter of utmost urgency that concrete measures be immediately taken in response to the current series of grave violations of human rights in southern Iraq. The water diversion project, which has serious consequences for the local population, ought to be stopped. Moreover, there is an urgent need to send a team of human rights monitors to the region of the southern marshes to constitute an independent source of reliable information following the course of events in the marsh area.

ANNEX

Letter dated 29 July 1992 from the Special Rapporteur of the Commission on Human Rights addressed to the Minister for Foreign Affairs of Iraq

As Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq, I find myself in receipt of a considerable number of reports of serious human rights violations said to have been committed by your Government in recent weeks in the area of the southern marshes. The sudden increase in the number of these reports, emanating from a wide variety of sources, together with the breadth of specific allegations that they cast, is particularly alarming. Moreover, in so far as reliable information received appears to demonstrate a policy of aggression directed by government authorities against the population inhabiting the southern marshes, that is, principally the so-called Marsh Arabs, I find myself bound to appeal to your Government to cease any and all activities that may constitute violations of its obligations under international law.

In terms of general allegations, it has come to my attention that the Government of Iraq is moving rapidly ahead with the so-called "Third River Project" in the south, in the framework of which large parts of the marsh area are being drained, ostensibly to irrigate salted flats. Coupled with the alleged use of defoliants and the reported burning of reed beds, the essential environment intrinsically linked with the lifestyle and ancient culture of the Marsh Arabs is being threatened, without the affected population ever having been consulted. The population inhabiting the marshes is itself being forcibly relocated into population centres in the region, as was apparently recently admitted by Assembly Speaker Saadi Mehdi Salleh. At the same time, there are reliable reports of artillery fire being directed against purely civilian targets in and around the marshes, including entire villages, causing growing numbers of deaths and injuries, while many others are said to have lost their homes and been forced to flee. Of general effect is also the economic situation, which has been exacerbated by a continuing internal blockade against the region and its population.

By way of referring to specific cases, it has, for example, been reliably reported that the villages of Adil and Al-Salaam, some 30 kilometres south-west of Amara, were evacuated and burnt earlier this month. Heavy artillery, fire-bombs and even strafing have reportedly been used against the local population in recent weeks. Mounting casualties have been observed in the local medical centres.

Certainly, I am also aware of the urgent appeal that the Special Rapporteur on extrajudicial, summary or arbitrary executions recently addressed to you subsequent to most disconcerting reports of widespread deaths, arrests and disappearances resulting from attacks on 9 and 10 July 1992 on the villages of Shumbaara, Al-Awaili, Al-Kabab, Al-Mouzar, Abu Saboor and Um al-Hosh, and attacks on 15 July on the villages of Al-Wadia,

Um al-Hosh, Al-Mouzar and Al-Hajia. Of course, I share the concern that civilian protections and human rights, especially effective protection of the rights to life and physical integrity, do not appear at all to be respected. In relation to these concerns, I urge your Government to bring an immediate halt to what appear to constitute repressive activities in the region and to respect the rights of the unique minority population located therein. In this connection, I would like to draw your Government's particular attention to Security Council resolution 688 (1991) of 5 April 1991, which calls upon the Government of Iraq to end its repressive policies, which constitute a threat to international peace and security in the region. I would also urge your Government to consult the local population about such major projects as appear to be constituting a threat to their immediate livelihood and the survival of their culture.

Max VAN DER STOEL
Special Rapporteur on the
situation of human rights in Iraq